

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

NEO-FLO, INC.)	
)	
)	
Plaintiff,)	CIVIL ACTION FILE NO.
v.)	
)	
MYDENT INTERNATIONAL CORP.)	<u>JURY TRIAL DEMANDED</u>
)	
)	
Defendant.)	

COMPLAINT

COMES NOW Plaintiff, NEO-FLO, Inc. (NEO-FLO), and for its Complaint against Defendant, Mydent International Corp. (MYDENT), states the following:

THE PARTIES

1. NEO-FLO is a corporation organized under the laws of the State of California, with its principal place of business in Kennesaw, Georgia.

2. Upon information and belief, Defendant MYDENT is a corporation organized under the laws of the State of New York, with its principal place of business in Hauppauge, New York. Defendant can be served at:

Mydent International Corp.
80 Suffolk Court
Hauppauge, New York, 11788

JURISDICTION AND VENUE

3. This is an action against Defendant MYDENT for patent infringement arising under the Patent Laws of the United States, specifically 35 U.S.C. § 271 and 35 U.S.C. § 281.

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 as it involves a federal question and 28 U.S.C. §1338(a) as it involves federal patent law. This Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1332 as the action is between citizens of different States, and the amount in controversy in this action, exclusive of interest and costs, exceeds the sum of \$75,000.00.

5. This Court has personal jurisdiction over Defendant MYDENT because it has knowingly and actively engaged in acts that have infringed, will infringe, and/or aid and abet in the direct infringement of claims of NEO-FLO's patent in this judicial district and division.

6. In addition, this Court has personal jurisdiction over the Defendant MYDENT based upon its sale of goods and the transaction of business in the state of Georgia and sufficient minimum contacts with the state of Georgia.

7. Venue is proper in this District under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1391(c) because a substantial part of the events and injury giving rise to NEO-FLO's claims have occurred and continue to occur in this district.

THE CONTROVERSY

8. Since about 1971, NEO-FLO has been and continues to be engaged in the business of developing dental related products in the United States.

9. Over the years, NEO-FLO has created many innovative, reliable products and has grown in size, sophistication and reputation to become a well-known manufacturer and distributor of dental products in the United States.

10. Today, NEO-FLO is headquartered in Kennesaw, Georgia.

11. NEO-FLO conducts business under the name Microcopy.

12. Defendant MYDENT competes with NEO-FLO and sells dental related products.

13. On September 16, 2008, the United States Patent and Trademark Office duly and lawfully issued U.S. Patent No. 7,425,664 B2 (“the ‘664 Patent”) to inventors Thomas H. Maass, Jr. and Perry L. Parke for the invention entitled “DENTAL ABSORBENT PAD”. (See Exhibit A, Plaintiff’s U.S. Patent, Reg. No. 7,425,664 B2.)

14. The '664 Patent discloses and claims, *inter alia*, an absorbent pad for use in dentistry.

15. The '664 Patent is currently in full force and effect. In accordance with 35 U.S.C. § 282, the '664 Patent, and each and every claim thereof, is presumed to be valid.

16. All rights, title and interest in and to the '664 Patent have been assigned to NEO-FLO, which is the sole owner of the '664 Patent.

17. Defendant MYDENT promotes, offers to sell, provides and sells dental related products, including, but not limited to, its dental absorbent pad under the name DEFEND cotton roll substitutes, models CR-9500 and CR-9000, (collectively "Accused Product"), which infringes, includes and/or practices one or more of the inventions claimed in the '664 Patent. (See Exhibit B, photograph of one of Defendant's Accused Products).

18. With the '664 Patent in full force and effect, Defendant MYDENT has made, used, sold, offered for sale and/or imported dental absorbent pad products in blatant disregard of NEO-FLO's patent rights. Indeed, Defendant MYDENT's infringing acts, including the introduction, promotion and sale of products covered by NEO-FLO's '664 patent, has occurred without NEO-FLO's knowledge and without any attempt made by Defendant MYDENT to secure any rights or

authorization from NEO-FLO to make, use, import, offer to sell, or sell the patented products.

19. Upon information and belief, Defendant MYDENT is distributing its Accused Product throughout the United States and the State of Georgia.

COUNT I

PATENT INFRINGEMENT--U.S. PAT. 7,425,664 B2

20. NEO-FLO hereby incorporates and realleges paragraphs one (1) through nineteen (19) as if fully set forth herein.

21. Defendant MYDENT has made, used, offered for sale, distributed, sold and/or imported into the United States dental related products, including, but not limited to, its dental absorbent pad, which infringe the '664 Patent.

22. Defendant MYDENT has caused and will continue to cause NEO-FLO irreparable injury and damage by directly infringing, actively inducing others to infringe and/or contributing to infringement of the '664 Patent. NEO-FLO will suffer further irreparably injury, for which NEO-FLO has no adequate remedy at law, unless and until Defendant MYDENT is enjoined from infringing the '664 Patent.

23. Defendant MYDENT's infringement constitutes willful and intentional infringement making this an exceptional case and justifying the

imposition of treble damages and an award of reasonable attorney fees to NEO-FLO within the provisions of 35 U.S.C. §§ 284-85.

24. By reason of the acts of Defendant MYDENT alleged herein, NEO-FLO has suffered, is suffering and will continue to suffer irreparable damage, and unless Defendant is restrained from continuing its wrongful acts, the damage to NEO-FLO will increase.

JURY DEMAND

NEO-FLO demands a trial by jury of all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, NEO-FLO respectfully prays for the following relief:

A. That the Court enter judgment that Defendant MYDENT has infringed, induced infringement of and/or contributorily infringed one or more claims of the '664 Patent in violation of 35 U.S.C. § 271;

B. That the Court issue an injunction requiring Defendant MYDENT, its officers, agents, servants and employees be enjoined and restrained from making, using, offering to sell, selling, or importing into the United States Defendant's infringing products;

C. That the Court enter judgment and order as part of the injunction Defendant be directed to file with this Court and serve on Plaintiff within thirty

days after issuance of the injunction, a report in writing under oath, setting forth in detail the manner and form in which Defendant has complied with the injunction;

D. That as a further part of the injunction Defendant be required to deliver up and destroy all of Defendant's infringing products and all literature, advertisements and other materials displaying Defendant's infringing products and contributing to false and erroneous impressions concerning the nature, characteristics, qualities, and/or geographic origin of its products, services and/or commercial activities;

E. That the Court enter judgment and order that Defendant account for and pay to Plaintiff all damages available to NEO-FLO for Defendant's infringement of the '664 Patent, and that the Court increase the amount of damages to three times the amount found or assessed by the Court because of the willful and deliberate nature of the infringement, in accordance with 35 U.S.C. § 284;

F. That the Court declare this an exceptional case and that Plaintiff be granted its reasonable attorneys' fees in accordance with 35 U.S.C. § 285;

G. That the Court require Defendant to notify its commercial licensees, dealers, associates, suppliers and customers of said injunction and judgment of this Court;

H. That the Court grant NEO-FLO prejudgment interest and costs; and

I. That the Court grant such other and further relief as the Court may deem just and proper.

Respectfully submitted this 1st day of October, 2015.

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

/s/ L. Clint Crosby

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CERTIFICATE OF COMPLIANCE

Undersigned counsel certifies the foregoing document has been prepared with one of the font and point selections (Times New Roman, 14 point) approved by the court in local rule 5.1 (C) and 7.1 (D).

This 1st day of October, 2015.

BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.

/s/ L. Clint Crosby

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